REMARKS

I. Introduction

As a result of this response, claims 7-12 of the present application are pending, and claim 7 is amended. Claims 7-12 have been rejected by the Office Action.

In view of the following remarks, it is respectfully submitted that claims 7-12 are allowable, and reconsideration of these claims is respectfully requested.

II. Objection to the Specification

The Office Action has objected to the specification because of informalities. Specifically, the Office Action states "*repeated references are made to item 10 'signal evaluation' however the claims recite 'signal evaluation unit'. Amendments to the specification are suggested to bring the disclosure more in line with the claimed limitations.*"

In response, the Applicant has replaced each instance of the term "signal evaluation" in the specification with "signal evaluation unit," as suggested in the Office Action. Therefore, for at least the foregoing reasons, withdrawal of the objection to the specification is respectfully requested.

III. Objection to Claim 7

The Office Action has objected to claim 7 as having "*the limitation 'connected up' [which] should be changed to 'connected'.*"

In response, the Applicant has amended claim 7 as suggested in the Office Action. Therefore, for at least the foregoing reasons, withdrawal of this objection to the claims is respectfully requested.

IV. Rejection of Claim 7 Under 35 U.S.C. § 102(b)

Claim 7 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,109,199 to Berger (hereinafter "the Berger reference"). The Applicant respectfully traverses this rejection, for the following reasons.

To anticipate a claim under § 102(b), a single prior art reference must identically disclose each and every claim element. See Lindeman Machinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claim invention, arranged exactly as in the claim. Lindeman, 703 F.2d 1458 (Emphasis added). Additionally, not only must each of the claim limitations be identically disclosed, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the inventions of the rejected claims, as discussed above. See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986). To the extent that the Examiner may be relying on the doctrine of inherent disclosure for the anticipation rejection, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy , 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Independent claim 7, as amended, recites a "switch assembly for switching off at least one airbag, comprising: at least one switch; and two identical sensors for detecting a switching state of the at least one switch, wherein the two identical sensors are connected in such a way that ranges for at least one electrical characteristic quantity to be evaluated for detecting the switching state differ from each other." The Berger reference clearly does not identically disclose, or even suggest, at least the above-identified claim features. Specifically, the Berger reference does not identically disclose, or even suggest, two identical sensors. The Office Action states that the conductor bridges 14a and 14b shown in the Berger reference correspond to the claimed two identical sensors. However, the Applicant respectfully disagrees for several reasons. Firstly, a conductor bridge is not a sensor. The American Heritage Dictionary (Fourth Edition, Houghton Mifflin Company, 2004) defines a sensor as "*[a] device, such as a photoelectric cell, that receives and responds to a signal or*

stimulus" (emphasis added). Similarly, the Miriam Webster Online Dictionary (retrieved at http://www.m-w.com/dictionary/sensor on October 26, 2006) defines a sensor as "*a device that responds to a physical stimulus (as heat, light, sound, pressure, magnetism, or a particular motion) and transmits a resulting impulse (as for measurement or operating a control)*" (emphasis added). Thus, a device must receive and respond to a stimulus to be a sensor. Even if one assumes for the sake of argument that the conductor bridges 14a and 14b of the Berger reference receive a stimulus by being contacted by contact element 12, conductor bridges 14a and 14b do not respond to such contact, and therefore cannot be regarded as sensors. By contrast, the sensors described in the present application respond to stimulus. For example, the present application provides that exemplary sensors include Hall-effect sensors, which produce a signal in response to a magnetic or electrical stimulus. Thus, the Berger reference does not identically disclose, or even suggest, two identical sensors.

Secondly, with regard to the Berger reference not identically disclosing, or even suggesting, two identical sensors, the Berger reference does not disclose, or even suggest, that the conductor bridges 14a and 14b are identical. In fact, the Berger reference is silent with regard to whether conductor bridges 14a and 14b are identical or different. Furthermore, it would not be inherent to the disclosure of the Berger reference that conductor bridges 14a and 14b are identical because non-identical conductor bridges 14a and 14b may also be suitable to proper operation of the device shown in Fig. 2 of the Berger reference. Thus, conductor bridges 14a and 14b being identical does not necessarily flow from the disclosure of the Berger reference, and is therefore not inherent to the Berger reference. Therefore, the Berger reference does not identically disclose, or even suggest, two identical sensors.

Additionally, the Berger reference also does not identically disclose, or even suggest, the two identical sensors are connected in such a way that ranges for at least one electrical characteristic quantity to be evaluated for detecting the switching state differ from each other. Instead, the Berger reference merely states, in reference to Fig. 1, "*to connect such a switch together with a voltage divider, consisting of two ohmic resistors, in such a way that one of the two resistors is bridged if the clearance between contacts is shorted. Depending on the application of a constant current or a constant voltage, the voltage then established along the series circuit (or the current flowing through it) can be evaluated. The information on switch closing appears within certain allowed tolerances, encoded into two permissible resistance values*" (col. 1, ll. 27-36). However, the figure referenced by this passage from the Berger

reference, i.e., Figure 1, does not include any sensors. Instead, Figure 1 only includes two resistors and switch. Therefore, the Berger reference does not identically disclose, or even suggest, that two sensors are connected in such a way that ranges for at least one electrical characteristic quantity to be evaluated for detecting the switching state differ from each other.

Therefore, the Berger reference fails to identically disclose, or even suggest, every element of independent claim 7. For at least this reason, independent claim 7 is patentable under 35 U.S.C. § 102(b). Thus, withdrawal of the rejection against this claim is respectfully requested.

V. Rejection of Claims 8-9 Under 35 U.S.C. § 103(a)

Claims 8-9 were rejected under 35 U.S.C. § 103(a) over the Berger reference in view of U.S. Patent No. 5,982,048 to Fendt et al. (hereinafter "the Fendt reference"). The Applicant respectfully traverses this rejection, for the following reasons.

In rejecting a claim for obviousness under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine the reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Applicant notes that claims 8-9 depend directly or indirectly from independent claim 7. As noted above, claim 7 is not anticipated by the Berger reference. In addition, the Fendt reference fails to remedy the deficiencies of the Berger reference as applied against parent claim 7. Accordingly, it is respectfully submitted that dependent claims 8-9 are patentable over the combination of the Berger and Fendt references. Therefore, withdrawal of this rejection is respectfully requested.

VI. Rejection of Claims 10-12 Under 35 U.S.C. § 103(a)

Claims 10-12 were rejected under 35 U.S.C. § 103(a) over the Berger reference in view of the Fendt reference, and further in view of U.S. Patent No. 6,593,758 to Mulera et al. (hereinafter "the Mulera reference"). The Applicant respectfully traverses this rejection, for the following reasons.

In rejecting a claim for obviousness under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine the reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

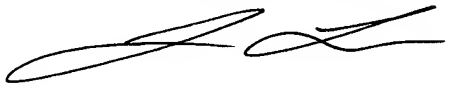
Applicant notes that claims 10-12 depend indirectly from independent claim 7. As noted above, claim 7 is not anticipated by the Berger reference. In addition, the Fendt and Mulera references fail to remedy the deficiencies of the Berger reference as applied against parent claim 7. Accordingly, it is respectfully submitted that dependent claims 10-12 are patentable over the combination of the Berger, Fendt and Mulera references. Therefore, withdrawal of this rejection is respectfully requested.

CONCLUSION

Applicant respectfully submits that all pending claims of the present application are now in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

The Office is authorized to charge any fees associated with this Amendment to Kenyon & Kenyon LLP's Deposit Account No. 11-0600.

Respectfully submitted,



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